

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ACE V WHITENER,

Plaintiff

v.

GAVAZOS FOIA, *et. al.*,

Defendants.

Case No. 3:25-CV-00352-MMD-CLB

**ORDER TO EITHER PAY FILING FEE OR
FILE COMPLETE APPLICATION TO
PROCEED *IN FORMA PAUPERIS***

I. DISCUSSION

On July 14, 2025, Plaintiff Ace V. Whitener (“Whitener”), an inmate in the custody of the Nevada Department of Corrections, submitted a civil rights complaint with the Court. (ECF No. 1-1.) Whitener has neither paid the full \$405 filing fee for this matter nor did he file a proper and complete application to proceed *in forma pauperis*.

Pursuant to 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full \$405 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

- (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this Court’s approved form (i.e., pages 1 through 3 with the inmate’s two signatures on page 3),
- (2) a **Financial Certificate** properly signed by both the inmate **and** a prison or jail official (i.e., page 4 of this Court’s approved form), and
- (3) a copy of the **inmate’s prison or jail trust fund account statement for the previous six-month period.**

Because Whitener’s application to proceed *in forma pauperis* is incomplete, it is denied, with leave to refile. The Court will grant Whitener a **one-time** opportunity to file a

1 fully complete application to proceed *in forma pauperis* containing all three of the required
2 documents, or in the alternative, pay the full \$405 filing fee for this action on or before
3 . Absent unusual circumstances, the Court will not grant any further extensions of
4 time.

5 If Whitener is unable to file a fully complete application to proceed *in forma*
6 *pauperis* with all three required documents or pay the full \$405 filing fee on or before
7 **Monday, September 8, 2025**, this case will be subject to dismissal without prejudice for
8 Whitener to file a new case with the Court when Whitener is either able to acquire all three
9 of the documents needed to file a fully complete application to proceed *in forma pauperis*
10 or pays the full \$405 filing fee.

11 A dismissal without prejudice means Whitener does not give up the right to refile
12 the case with the Court, under a new case number, when Whitener has all three
13 documents needed to submit with an application to proceed *in forma pauperis*.
14 Alternatively, Whitener may choose not to file an application to proceed *in forma pauperis*
15 and instead pay the full filing fee of \$405 on or before **Monday, September 8, 2025** to
16 proceed with this case.

17 **II. CONCLUSION**

18 For the foregoing reasons, **IT IS ORDERED** that Whitener's incomplete application
19 to proceed *in forma pauperis*, (ECF No. 1), is **DENIED with leave to refile**.

20 **IT IS FURTHER ORDERED** that the Clerk of the Court will **SEND** Whitener the
21 approved form application to proceed *in forma pauperis* by an inmate, as well as the
22 document entitled information and instructions for filing an *in forma pauperis* application.

23 **IT IS FURTHER ORDERED** that on or before **Monday, September 8, 2025**,
24 Whitener will either pay the full \$405 filing fee for a civil action (which includes the \$350
25 filing fee and the \$55 administrative fee) or file with the Court:


- 26 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this
27 Court's approved form (i.e., pages 1 through 3 of the form with the inmate's two
28 signatures on page 3),

- 1 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail
2 official (i.e., page 4 of this Court's approved form), and
3 (3) a copy of the **inmate's prison or jail trust fund account statement for the**
4 **previous six-month period.**

5 **IT IS FURTHER ORDERED** that, if Whitener does not file a fully complete
6 application to proceed *in forma pauperis* with all three documents or pay the full \$405
7 filing fee for a civil action on or before **Monday, September 8, 2025**, this case will be
8 subject to dismissal without prejudice for Whitener to refile the case with the Court, under
9 a new case number, when Whitener has all three documents needed to file a complete
10 application to proceed *in forma pauperis* or pays the full \$405 filing fee.

11 **IT IS SO ORDERED.**

12 **DATED:** July 25, 2025

13 
14 **UNITED STATES MAGISTRATE JUDGE**
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